PART IV

SECTION 2-A

MYSORE BILLS AND REPORTS OF SELECT COMMITTEES THEREON

MYSORE LEGISLATIVE ASSEMBLY.

FOURTH SESSION

NOTIFICATION

No. 5006 L.A., Bangalore, dated 18th September 1968.

The following Bill was introduced in the Legislative Assembly on the 17th September 1968.

THE MYSORE PUBLIC MEN (INQUIRIES) BILL. 1968.

A Bill to provide for the investigation of and inquiry into allegations of misconduct against certain classes of persons who are or have been in the public life of Mysore and for matters connected therewith.

PREAMBLE:—Whereas it is expedient to provide for the investigation of and inquiry into allegations of misconduct against certain classes of persons who are or have been in the public life of Mysore and for matters connected therewith.

BE it enacted in the Nineteenth Year of the Republic of India as follows :—

1. *Short Title, Extent and Commencement.*—(1) This Act may be called the Mysore Public Men (Inquiries) Act, 1968.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the Government may, by notification in the *Mysore Gazette,* appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Commissioner" means a person appointed to be a Commissioner under section 5 ;

(*b*) "Investigator" means an investigator appointed under sub-section (1) of section 8 ;

(*c*) "Misconduct" includes corruption, bribery, any act of favouritism or nepotism and any other act which is against public interest, public policy or sound administration ;

(*d*) "Political Party" means a political party which satisfies such conditions as may be prescribed and is notified by the Government in the *Mysore Gazette* for the purpose of this Act ;

(*e*) "Prescribed" means prescribed by rules made under this Act ;

(*f*) "Public Man" means—

(i) a person who is or has been a Minister of the State ; or

(ii) a person who is or has been a member of the Legislative Assembly or Council of the State ; or

(iii) a person who is or has been a member of president or chairman of the Mysore State Housing Board or City Improvement Trust Boards or Mysore State Electricity Board or Mysore State Road Transport Corporation or District or Taluk Agricultural Marketing or Credit Society or Land Development Bank or such other Boards or Corporations or Societies as are in existence ; or

(iv) a person who or has been a member of a municipal corporation or a municipal council or a panchayat or a taluk board or a township committee ; or

(v) a person who is or has been a President, Chairman or Secretary of a Pradesh or State Committee of a political party ;

(*g*) "State" means the State of Mysore.

3. *Constitution of Penals.*—(1) For the purposes of this Act, the Government shall, by notification in the *Mysore Gazette*, constitute two panels as follows :—

(*a*) one panel consisting of the names of not less than three and not more than five persons falling under any one or more of the following categories, namely :—

(i) serving Judges of the High Court of Mysore ;

(ii) retired Judges of any High Court in India or the Supreme Court of India ;

(*b*) the other panel consisting of the names of not less than three and not more than five persons falling under any one or more of the following categories, namely.—

(i) serving District Judges in the State of Mysore ;

(ii) retired District Judges ;

Provided that no person shall be included in any such panel except with his consent.

(2) A penal constituted under sub-section (1) shall remain in force for a period of five years from the date of the notification constituting the panel.

4. *Petition for Initiating Proceedings.*—(1) Any person may present a petition addressed to the Chief Secretary to the Government of Mysore requesting for an inquiry into an allegation of misconduct against any public man specified in the petition.

(2) Every petition under sub-section (1) shall be accompanied by an affidavit in support of the allegation contained therein and a treasury receipt of a sum of five hundred rupees :

Provided that no such treasury receipt is necessary where the petition is presented by—

(*a*) not less than ten members of the Legislative Assembly or Council of the State jointly; or

(*b*) the Pradesh or State Committee of a political party.

(3) Every petition under sub-section (1) as well as any schedule or annexure thereto shall be verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), for the verification of pleadings.

(4) A petition which does not comply with any of the foregoing provisions of this section or is against a person who has not held any of the offices referred to in clause (*f*) of Section 2 during a period of three years immediately preceding the date of its presentation shall not be entertained:

Provided that a petition against a person who was a Minister of the State within a period of ten years preceding the commencement of this Act may be entertained.

5. *Appointment of Commissioner.*—(1) As soon as a petition alleging misconduct against a person mentioned in clause (*f*) (i), (ii) of Section 2 is entertained under Section 4, the Government shall appoint one of the persons included in the panel constituted under clause (*a*) of sub-section (1) of Section 3 to be the Commissioner for inquiring into the allegation contained therein.

(2) Where a petition is against any other public man, the appointment of the Commissioners shall be from the panel referred to in clause (b) of the said sub-section:

Provided that no person shall be appointed as Commissioner under sub-section (1) or sub-section (2) except with his consent.

(3) A commissioner appointed under sub-section (1) or sub-section (2) shall be entitled from the date of such

appointment till the date of his filling the report under sub-section (1) of Section 7 or clause (*a*) of sub-section (2) of Section 11 or sub-section (1) of Section 15 or the date on which he ceases to be a Commissioner,—

(*a*) in the case of a retired Judge, or a serving Judge continuing to function as Commissioner after his retirement, to the same salary, allowances and other conditions of service as he was in receipt of, or subject to, immediately before his retirement :

Provided that—

(i) a retired Judge or serving Judge shall not be entitled to any pension for the period during which he functions as Commissioner or continues to function as Commissioner after his retirement, as the case may be ; and

(ii) such period shall not count for pension.

(4) Any vacancy in the office of the Commissioner shall be filled by the Government by the appointment of another person from the panel for the time being in force and the successor may proceed from the stage at which the vacancy occurred :

Provided that if the succeeding Commissioner is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may resummon any such witness and examine him.

(5) The Commissioner shall cease to hold office—

(*a*) if he becomes of unsound mind and stands so declared by a competent court ;

(*b*) if he, by writing under his hand addressed to the Government, resigns his office ;

(*c*) if he is adjudged an insolvent ; or

(*d*) if he is removed from office under sub-section (6).

(6) If the Government are of opinion that the Commissioner has, by reason of any physical or mental disability or by negligence in the performance of his duty or for any other reason become unfit for continuing in his office, the Government shall refer the matter to the High Court for opinion and if a Full Bench of the High Court is of opinion that the Commissioner should be removed from his office, the Government shall pass an order removing him.

(7) Where a Commissioner ceases to hold office under clause (*a*) or clause (*c*) or clause (*d*) of sub-section (5), he shall cease to be a member of the panel.

(8) The Commissioner shall be provided with such staff as may be prescribed.

6. *Reference of Petition for Inquiry.*—(1) The Chief Secretary to Government shall on the appointment of a Commissioner under Section 5 refer the petition to the Commissioners for appropriate action under this Act.

(2) Where a reference is pending with a Commissioner against any person, any subsequent reference in respect of the same person shall ordinarily be made to him.

Provided that no person who is appointed as a Commissioner under Section 5 shall act as such Commissioner in which he is personally interested or a party or related by blood to the public man, however remote against whom an allegation of misconduct is made.

7. *Preliminary Scrutiny by Commissioner.*—(1) On receipt of a reference under Section 6, the Commissioner shall scrutinise the allegation and if on such scrutiny is of the opinion that the allegation is without substance or trivial in its nature or that further investigation is not likely to prove useful, he shall record a finding to that effect and report to the Government accordingly stating his

reasons for such finding, and the Government shall cause the report to be laid before the State Legislative Assembly :

Provided that every report submitted under sub-section (2) of Section 7 shall be submitted along with the opinion of another Commissioner specially appointed for this purpose to scrutinise the report and to record his opinion thereon.

(2) Before recording a finding under sub-section (1) the Commissioner may, if he considers it necessary, call for any relevant information in respect of the allegation of misconduct from the complainant or the Government or any other person or authority, and thereupon the complainant or the Government or the other person or authority shall be bound to furnish such information.

(8) *Appointment of Investigator.*—(1) The Commissioner shall, in any case not falling under Section 7, request the Government to appoint an Investigator for the investigation of the allegation and, on receipt of such request, the Government shall appoint an Investigator accordingly.

(2) The Investigator appointed under sub-section (1) shall be a police officer not below the rank of a Superintendent of Police.

(3) On the appointment of an Investigator under sub-section (1), the Commissioner shall refer the allegations to him for investigation.

9. *Investigator's Establishment.*—(1) The Government may, if they consider it necessary on the recommendation of the Commissioner, constitute a Special Police Force called the Investigator's Establishment to assist the Investigator in the investigation of any allegation referred to him under sub-section (3) of Section 8.

(2) Subject to any rules made under this Act, the Investigator shall exercise in respect of his establishment all the powers exercisable by the Government and the

Inspector-General of Police in respect of the ordinary Police Force of the State.

10. *Investigation.*—The Investigator shall investigate or cause to be investigated by the officers of his establishment the allegation of misconduct referred to him under sub-section (3) of Section 8 and shall, as soon as the investigation is completed, report the result thereof confidentially to the Commissioner.

11. *Procedure on receipt of report under Section* 10.—(1) Where the investigator has reported that the allegation is wholly or partially substantiated, the Commissioner shall proceed to inquire into it.

(2) Where the Investigator has reported that the allegation is not substantiated, the Commissioner may—

(*a*) accept the report of the Investigator and report the Government accordingly ; or

(*b*) direct further investigation ; or

(*c*) reject the report and proceed to inquire into the allegation.

(3) Before taking any action under sub-section (2), the Commissioner may, if he considers it necessary, call for any further information from the Investigator.

(4) Where the Commissioner has directed further investigation under clause (*b*) of sub-section (2), the Investigator shall proceed to make further investigation and report the result thereof confidentially to the Commissioner.

(5) On receipt of the report from the Investigator under sub-section (4), the Commissioner shall proceed in the same manner as if he had received a report under Section 10.

12. *Procedure of inquiry by Commissioner.*—(1) The Commissioner shall, subject to the provisions of this Act and of any rules made thereunder, have power to regulate his own procedure, including the fixing of the time and place of sitting.

(2) The Commissioner shall, while holding an inquiry ordinarily sit in public, but it shall be open to the Commissioner, in view of the special circumstances of a case, to hold his sittings or part thereof in private.

(3) The person against whom misconduct has been alleged, the petitioner and the Investigator shall have the right to be represented by counsel.

(4) The Commissioner may, at any stage, also permit—

(*a*) any witness ; or

(*b*) any other person who claims that he is likely to be prejudicially affected by the inquiry, to be represented by counsel to take such part in the proceedings as the Commissioner may, in the interests of justice, think fit.

13. *Powers of Commissioner.*—(1) The Commissioner shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of any document ;

(*c*) receiving evidence on affidavits ;

(*d*) requisitioning any public record or copy thereof from any court or office ;

(*e*) issuing commissions for the examination of witnesses or documents ;

(*f*) such other matters as may be prescribed.

(2) The Commissioner or any member of the Investigator's Establishment or any other officer authorised by the Commissioner in this behalf may enter and search any building or place where the Commissioner has reason to believe that any books of account or other documents relevant to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom.

(3) The provisions of Sections 102 and 103 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), shall, as far as may be, apply to searches under sub-section (2).

(4) Any proceeding before the Commissioner shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860).

14. *Statements made to the Commissioner.*—No statement made by a person in the course of giving evidence before the Commissioner shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement :—

Provided that the statement—

(*a*) is made in reply to a question he is required by the Commissioner to answer ; or

(*b*) is relevant to the subject matter of the inquiry.

15. *Finding of Commissioner.*—(1) The Commissioner shall, at the end of the inquiry, pronounce his findings in public and report the same to the Government.

(2) Where the Commissioner is of opinion that it is expedient in the interests of justice that the person concerned with the subject matter of the allegation should be prosecuted for any offence referred to in Section 8 of the Criminal Law Amendment Act, 1952 (Central Act 46 of 1952), he shall record finding to that effect stating his reasons therefor.

(3) Where the Commissioner is of opinion that the petitioner under Section 4 or any other person has intentionally given false evidence in any stage of the proceedings before him or has intentionally fabricated false evidence for the purpose of being used in any stage of such proceedings or has committed any offence referred to in Section 198-B of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), he shall record a finding to that effect, stating his reasons therefor, and may if he considers it expedient in the interests of justice make a complaint under Section 195 of the said Code, signed by him or such officer of his staff as he may authorise in this behalf and for the purposes of that section the Commissioner shall be deemed to be a court.

(4) Where a finding referred to in sub-section (2) or sub-section (3) is recorded by the Commissioner, the Investigator shall take all necessary steps for the prosecution of the person the person concerned, including, where necessary the taking of the sanction for such prosecution.

(5) Any prosecution under sub-section (4) shall be conducted before the trial court or any superior court by the Investigator or the officer of his establishment nominated by him in his behalf or by any counsel appointed by him, and the person so conducting the prosecution shall be deemed to be a public prosecutor.

16. *Costs.*—(1) The Commissioner may order the petitioner to pay such amount of costs as may be specified in the order to the person against whom the allegation has been made or to any other person referred to in sub-section 4 of Section 12.

(2) The Commissioner may order any part of the costs ordered to be paid under sub-section (1) out of any amount deposited under Section 4 and issue a certificate of recovery in respect of the remainder, if any.

(3) Any person in whose favour a certificate is issued under sub-section (2) may apply to the principal court of original jurisdiction within the local limits of whose jurisdiction any person against whom the certificate is issued has a place of residence or business, for recovery of the amount specified in the certificate, and such court shall thereupon execute the certificate or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

17. *Bar to Inquiries.*—No formal or open inquiry into any allegation of misconduct by any public man, in respect of which a petition has been presented under Section 4, shall be made at the instance of the Government either under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), or by any other order or resolution of the Government but nothing herein contained shall be construed as affecting any rights or powers of any other person or authority under the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), of under any other law for the time being in force, or as affecting the constitution of, or the continuance of the functioning or exercise of powers by, any committee or Commission of Inquiry appointed before the commencement of this Act.

18. *Refund of forfeiture of deposit.*—(1) The sum deposited by any petitioner under Section 4 shall be disposed of in accordance with the provisions of sub-sections (2) to (3).

(2) Where the Commissioner to whom the allegation of misconduct is referred makes a report in respect thereof under sub-section (1) of Section 7 that the allegation is

without substance or is trivial in its nature or under clause (a) of sub-section (2) of Section 11 the sum shall be forfeited to the Government.

(3) In any other case, the Commissioner shall at the end of the inquiry make such orders in respect of the sum as, having regard to the circumstances of the case and the provisions of Section 16, he thinks fit.

19. *Bar of Publication, etc.*—(1) No information obtained by the Commissioner or any member of his staff or the Investigator or any member of his establishment in the course of or for the purposes of any scrutiny investigation or inquiry under this Act shall be disclosed except as required by or under this Act.

(2) The Investigator or any member of his establishment shall not be called upon to give any evidence in any proceedings on matters coming to their knowledge in the course of any scrutiny or investigation under this Act except at an inquiry before the Commissioner or at a trial arising out of any finding recorded by the Commissioner under sub-section (2) or sub-section (3) of Section 15.

(3) No person shall publish any proceedings relating to any scrutiny or investigation or to any part of an inquiry held in private which is pending under this Act, nor shall any person publish any such proceedings after the scrutiny, investigation or inquiry is completed except with the prior permission of the Government.

20. *Pendency of case not to Bar proceedings under this Act.*—The pendency of any civil or criminal case in the High Court or any court subordinate thereto bearing on any allegation of misconduct shall not bar the scrutiny, investigation or inquiry of or into that allegation under this Act, and no such scrutiny, investigation or inquiry shall be deemed to amount to contempt of such court.

21. *Power of Commissioner to punish for contempt.*—The Commissioner shall have the same power of punishing

any person for contempt of himself as the High Court has in respect of contempt and shall for this purpose be deemed to be a court.

22. *Protection of action taken under this Act.*— (1) No suit or other proceedings shall lie against the Commissioner or the Investigator or any member of the staff of the Commissioner or of the establishment of the Investigator or against the Government in respect of anything which is in good faith done or purported to be done under this Act.

(2) No reference, appointment, scrutiny, investigation or inquiry or other proceedings under this Act shall be called in question in any court.

23. *Power to make rules.*—(1) The Government may, by notification in the *Mysore Gazette,* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for :—

(*a*) the conditions to be satisfied by a political party before being notified as a political party for the purposes of this Act ;

(*b*) the conditions of service of the Investigator and the officers and servants of his establishment ;

(*c*) the power of the investigator and their exercise in relation to his establishment including the applicability of the provision of the Mysore Police Act, 1963 (Act 4 of 1964) and of the rules and regulations made thereunder to members of the said establishment ;

(*d*) powers, privileges and liabilities of members of the Investigator's Establishment in connection with the investigation under this Act ;

(*e*) the provision of staff for the Commissioner and the conditions of service of such staff ;

(*f*) the procedure of inquiry by the Commissioner;

(*g*) the powers of the Commissioner under clause (*f*) of sub-section (1) of section 13;

(*h*) the deposit, forfeiture, refund or disposal of sums referred to in section 4;

(*i*) fees payable to counsel appointed by Investigator for appearance before the Commissioner;

(*j*) any other matter which is to be, or may be, prescribed.

(3) A draft of every rule proposed to be made under clause (*a*) of sub-section (2) shall be laid before the Legislative Assembly and such rule shall be made only if the Legislative Assembly approves the draft with or without modification.

(4) Every rule made under this Act other than a rule referred to in sub-section (3) shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

At present there is no legislation in any of the States in this Country except in Uttar Pradesh to provide for the investigation of and inquiry into allegations of misconduct against persons like Ministers, Members of the Legislative Assembly, Leaders of Political Parties, etc., who are or had been in the public life. The bill is introduced with the object of having a similar legislation in the State of Mysore as to enable every citizen to make a complaint of misconduct against a public man and to prove his complaint, subject to certain conditions. The Bill is intended to prescribe a procedure for investigation of and enquiry into such complaints and to provide for a self-acting machinery to achieve the above object.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the appointment of a Commissioner for inquiring into the allegations contained in a petition and for the provision of staff to assist the Commissioner. Clause 8 provides for the appointment of an investigator for the investigation of the allegations contained in a petition. Clause 9 provides for the constitution of a special police force to assist the investigator in the investigation of any allegation referred to him. The Bill does not contemplate either a permanent Commissioner or a permanent Investigator a commissioner or investigator will be appointed only when a peti tion is entertained. If there are more petitions than one, it may be necessary to appoint more than one Commissioner of Investigator at a time. Therefore, the expenditure that may be involved on account of the appoint of the Commissioner or the Investigator and the members of the Staff of the Commissioner or the establishment of the Investigator cannot be estimated at present even approximately. The expenditure will depend upon the number of petitions entertained. The funds required for each inquiry will be provided as and when necessary.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 23 of the Bill seeks to empower the Government to make rules to carry out the provisions of the Act. Under sub-clause (2) (*a*) of clause 23, the Government have power to make rules regarding the conditions to be satisfied by a political party for the purposes of the Act. Even though this is not a matter of procedure, there are sufficient safeguards in the Bill against any misuse of this power. Under sub-caluse (3) of clause 23, the draft of every such rule shall be laid before the Legislative Assembly and such rule shall be made only if the Legislative Assembly approves the darft. The other matters in respect of which rules may be made relate INTER-ALIA to the conditions of service and powers of the Investigator, the provision of staff to the Commissioner, the Procedure of inquiry by the Commissioner and the fees payable to counsel appointed by the Investigator. There are matters of procedure intended for the smooth functioning of the machinery. The rule making power is thus of a normal character.

L. SRIKANTAIAH,
M. L. A.,

Te. HANUMANTHAPPA,
Secretary

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.